

FILED

2012 AUG -6 AM 9:21

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DARIO MORALES DE LA } Case No. ED CV 12-1146-UA (DUTYx)
LUZ,
 }
Plaintiff, } ORDER SUMMARILY REMANDING
vs. } IMPROPERLY-REMOVED ACTION
JOSSEE CARMEN VAZQUEZ, }
et al., }
Defendants. }

The Court will remand this unlawful detainer action to state court summarily because defendant removed it improperly.

On July 11, 2012, defendant Jose Guadalupe Vazquez, having been sued in what appears to be a routine unlawful detainer action in California Superior Court, lodged a Notice Of Removal of that action to this Court, and also presented an application to proceed in forma pauperis. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

Simply stated, plaintiff could not have brought this action in federal court in the first place, in that defendant does not competently allege facts supplying either

1 diversity or federal question jurisdiction, and therefore removal is improper. 28
2 U.S.C. § 1441(a); *see Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546,
3 563, 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005). Here, defendant has hinted at
4 both federal question and diversity jurisdiction as his basis for removal. But as
5 described in more detail in the Order Denying Defendant's Request to Proceed
6 Without Prepayment of Filing Fee, because the unlawful detainer action to be
7 removed does not actually raise any federal claims, and because the amount in
8 controversy does not exceed \$75,000 and there is no allegation of diversity of
9 citizenship, there is no basis to assert either federal question or diversity
10 jurisdiction. *See* 28 U.S.C. §§ 1331, 1332, 1441.

11 Accordingly, IT IS ORDERED that: (1) this matter be REMANDED to the
12 Superior Court of California, San Bernardino County, Victorville Branch, 14455
13 Civic Drive Suite 100, Victorville, CA 92392, for lack of subject matter
14 jurisdiction pursuant to 28 U.S.C. § 1447(c); (2) that the Clerk send a certified
15 copy of this Order to the state court; and (3) that the Clerk serve copies of this
16 Order on the parties.

17
18 DATED: 7/31/12

Audrey B. Collins
19 HONORABLE AUDREY B. COLLINS
20 CHIEF UNITED STATES DISTRICT JUDGE
21
22
23
24
25
26
27
28